

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

SYLVAN HAROLD COHEN
P. O. Box 492
New London, Missouri 63459

Pharmacist License No. RPH 33498,

Respondent.

Case No. 3004

DECISION AND ORDER

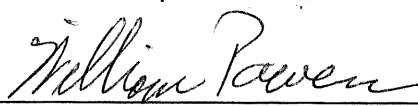
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, State of California, as its Decision in this matter.

This decision shall become effective on March 23, 2007.

It is so ORDERED February 21, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

ORIGINAL

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 3004

SYLVAN HAROLD COHEN
P. O. Box 492
New London, Missouri 63459

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

Pharmacist License No. RPH 33498,

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Virginia Herold ("Complainant") is the Interim Executive Officer of the Board of Pharmacy ("Board"). Complainant brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Leslie A. Burgermyer, Deputy Attorney General.
2. Respondent Sylvan Harold Cohen ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.
3. On or about December 3, 1979, the Board issued Pharmacist Number RPH 33498 to Respondent. Respondent's license will expire on January 31, 2008, unless renewed.

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1 no force or effect in any other case or proceeding. In the event this settlement is not adopted by
2 the Board, the stipulations will not become effective and may not be used for any purpose.

3 9. Respondent understands that by signing this Stipulation he enables the
4 Board to order accepting the surrender of his Pharmacist License No. RPH 33498 without
5 further process.

6 **CONTINGENCY**

7 10. This stipulation shall be subject to approval by the Board. Respondent
8 understands and agrees that counsel for Complainant and the staff of the Board may
9 communicate directly with the Board regarding this stipulation and surrender, without notice to
10 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
11 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
12 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
13 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for
14 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board
15 shall not be disqualified from further action by having considered this matter.

16 11. The parties understand and agree that facsimile copies of this Stipulated
17 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
18 and effect as the originals.

19 12. In consideration of the foregoing admissions and stipulations, the parties
20 agree that the Board may, without further notice or formal proceeding, issue and enter the
21 following Order:

22 **ORDER**

23 IT IS HEREBY ORDERED that Pharmacist License No. RPH 33498 issued to
24 Respondent is surrendered and accepted by the Board.

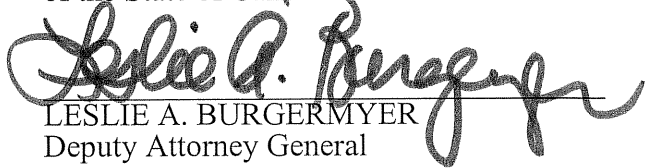
25 1. The surrender of Respondent's Pharmacist License No. RPH 33498 and
26 the acceptance of the surrendered license by the Board shall constitute the imposition of
27 discipline against Respondent. This Stipulation constitutes a record of the discipline and shall
28 become a part of Respondent's license history with the Board.

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy, Department of Consumer Affairs, State of California.

DATED: 11/9/07

BILL LOCKYER, Attorney General
of the State of California


LESLIE A. BURGERMYER
Deputy Attorney General

Attorneys for Complainant

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Exhibit A
Accusation No.

THIRTY

BILL LOCKYER, Attorney General
of the State of California
LESLIE A. BURGERMYER (SBN 117576)
Deputy Attorney General
California Department of Justice
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P.O. Box 944255
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Attorneys for Complainant

BEFORE THE
CALIFORNIA STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 3004

SYLVAN HAROLD COHEN
P. O. Box 492
New London, Missouri 63459
Pharmacist No. RPH 33498

ACCUSATION AND PETITION
TO REVOKE PROBATION

Respondent.

Complainant alleges:

PARTIES

1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity as the Interim Executive Officer of the California Board of Pharmacy ("Board"), Department of Consumer Affairs.

2. On or about December 3, 1979, the Board issued Pharmacist Number RPH 33498 to Sylvan Harold Cohen ("Respondent"). At all times relevant to the charges brought herein against Respondent, his Pharmacist License Number RPH 33498 was in effect. Respondent's license will expire on January 31, 2008, unless renewed.

PRIOR DISCIPLINE

3. In a disciplinary action entitled *In the Matter of the Accusation Against: Sylvan Harold Cohen*, Office of Administrative Hearings ("OAH") Case No. N-36329, the Board issued a decision, effective January 5, 1991, in which Respondent's Pharmacist License Number

1 RPH 33498 was revoked, immediately stayed, and Respondent was placed on probation for three
2 (3) years with specific terms and conditions. The Board's probationary terms and conditions were
3 tolled during the period(s) that Respondent lived outside the State of California. A true and
4 correct copy of the Decision in OAH Case No. N-36329 is attached hereto, marked as Exhibit A,
5 and incorporated herein by this reference.

6 **JURISDICTION**

7 4. This Accusation and Petition to Revoke is brought before the Board under
8 the authority of the following laws. All section references are to the Business and Professions
9 Code ("Code") unless otherwise indicated.

10 5. Section 4301 of the Code states, in pertinent part:

11 "The board shall take action against any holder of a license who
12 is guilty of unprofessional conduct or whose license has been
13 procured by fraud or misrepresentation or issued by mistake.
Unprofessional conduct shall include, but is not limited to, any
of the following:

14 . . .

15 "(g) Knowingly making or signing any certificate or other
16 document that falsely represents the existence or nonexistence
of a state of facts.

17 . . .

18 "(n) The revocation, suspension, or other discipline by another
19 state of a license to practice pharmacy, operate a pharmacy, or
do any other act for which a license is required by this chapter."

20 6. Section 4300 of the Code states, in pertinent part:

21 "(d) The board may initiate disciplinary proceedings to revoke
22 or suspend any probationary certificate of licensure for any
23 violation of the terms and conditions of probation. Upon
satisfactory completion of probation, the board shall convert
24 the probationary certificate to a regular certificate, free of
conditions."

25 7. California Code of Regulations ("Regulation"), title 16, section 1770,
26 states:

27 "For the purpose of denial, suspension, or revocation of a
28 personal or facility license pursuant to Division 1.5
(commencing with Section 475) of the Business and

Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

8. Probation Condition 15 in OAH Case No. N-36329 states:

"Should respondent violate probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final."

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

ACCUSATION

FIRST CAUSE FOR DISCIPLINE

(Knowingly Signed Document Making False Statement)

10. Respondent is subject to disciplinary action under Code section 4301, subdivision (g), on the ground of unprofessional conduct, in that:

a. On or about June 14, 2004, Respondent responded "no" in response to questions on the Certification of Personnel form which was attached to the application for Change of Pharmacist-in-Charge form submitted to the Board by the Barstow Community Hospital Pharmacy, a Board-licensed pharmacy. The questions inquired whether Respondent's Pharmacist License had been subject to discipline by this State or any other State, whether he had previously violated provisions of pharmacy law in California or any other State, and whether he had been convicted of, or plead no contest to, a violation of any law of a foreign country, the United States, or of any State or local jurisdiction.

///

b. On or about June 14, 2004, Respondent failed to disclose his prior discipline in OAH Case No. N-36329 and 1976 conviction on the Certification of Personnel form which was attached to the Change of Pharmacist-in-Charge form submitted to the Board by Barstow Community Hospital Pharmacy, a Board-licensed pharmacy.

SECOND CAUSE FOR DISCIPLINE

(Out of State Discipline)

11. Respondent is subject to disciplinary action under Code section 4301, subdivision (n), on the ground of unprofessional conduct, in that:

a. Effective on or about May 13, 2000, pursuant to an order by the Missouri State Board of Pharmacy in the case entitled *In the Matter of Sylvan H. Cohen*, Case No. 98-002093 PH, Respondent's Missouri pharmacist license was disciplined for violating Missouri pharmacy law.

b. Effective on or about October 10, 2001, pursuant to a consent order by the Illinois Department of Professional Regulation in the case entitled *Department of Professional Regulation of the State of California v. Sylvan H. Cohen*, Case No. 2000-01563-1, Respondent's Illinois pharmacist license was disciplined for violating Illinois law.

PETITION TO REVOKE PROBATION

FIRST CAUSE TO REVOKE PROBATION

(Failure to Successfully Participate in and Complete Impaired Pharmacists Program)

12. At all times after the effective date of Respondent's probation, Condition 1 stated:

"Within 30 days of the effective date of this decision, respondent shall contact the Impaired Pharmacists Program for evaluation and shall successfully participate in and complete the treatment contract as recommended by the IPP. The costs for IPP participation shall be borne by the respondent."

13. Respondent's probation is subject to revocation because he failed to comply with Condition 1 in that on or about August 25, 2005, MAXIMUS, the IPP provider, terminated Respondent from the IPP in that, including but not limited to, Respondent was no longer participating in the IPP and had a delinquent balance for payment of the program fees.

1 **SECOND CAUSE TO REVOKE PROBATION**

2 (Employed as Pharmacist-in-Charge While on Probation)

3 14. At all times after the effective date of Respondent's probation, Condition
4 13 stated:

5 "Respondent shall not supervise any registered intern or
6 technician and shall not perform any of the duties of a
7 preceptor, nor shall respondent be the pharmacist-in-charge of
 any pharmacy licensed by the Board."

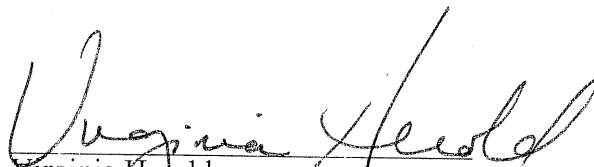
8 15. Respondent's probation is subject to revocation because in violation of
9 Condition 13, he was employed on or about June 14, 2004, as the Pharmacist-in-Charge for the
10 Barstow Community Hospital Pharmacy, a Board-licensed pharmacy. The Board had
11 inadvertently approved the application for Change of Pharmacist-in-Charge on or about
12 September 15, 2004, and notified the Barstow Community Hospital Pharmacy of the error on or
13 about October 6, 2004.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

- 17 1. Revoking or suspending Pharmacist Number RPH 33498, issued to Sylvan
18 Harold Cohen;
- 19 2. Ordering Sylvan Harold Cohen to pay the Board the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 10/3/06

24 
25 Virginia Herold
26 Interim Executive Officer
27 Board of Pharmacy
28 State of California
 Complainant

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EXHIBIT A
Decision in OAH Case No. N-36329

In the Matter of the Accusation)
Against:) No. 1497
)
SYLVAN HAROLD COHEN) OAH No. N-36329
)
)
Respondent.)
)

IT IS SO ORDERED December 5, 1990

Robert M. Toomajian
ROBERT TOOMAJIAN
PRESIDENT

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	No. 1497
)	
SYLVAN HAROLD COHEN)	OAH No. N-36329
)	
)	
Respondent.)	
<hr/>		

PROPOSED DECISION

On July 19, 1990, in Sacramento, California, Keith A. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Paul B. Bishop, Deputy Attorney General, represented complainant.

Sylvan Harold Cohen appeared in person and was not otherwise represented.

Evidence was received and the record remained open for the verification of records from the State of Missouri. The record was closed and the matter was submitted on October 26, 1990.

FINDINGS OF FACT

I

Complainant, Patricia F. Harris, made and filed the Accusation in her official capacity as Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs, State of California, and not otherwise.

II

On December 3, 1979, the Board of Pharmacy (hereinafter referred to as the "Board") issued Original Licentiate Number RPH 33498 to Sylvan Harold Cohen (hereinafter referred to as "respondent"). The license has been in full force and effect at all times pertinent herein and has been renewed through January 31, 1991.

III

On or about April 20, 1988, the Missouri State Board of Pharmacy and respondent stipulated to a Consent Order before the Administrative Hearing Commission of the State of Missouri, which placed respondent's pharmacy license in that state on suspension for one year and thereafter on probation for five years. Respondent consented to discipline under Counts I and II of the Complaint and neither admitted nor denied the allegation contained in Count III of the Complaint, but admitted that if the matter went to hearing that petitioner would present sufficient evidence to support a finding that cause existed to discipline him under the allegations in that count. Count I in the Complaint filed by the State Board of Pharmacy in Missouri, alleged that respondent took the biennial inventory for Americare Pharmacy and that he failed to show the time in which it was conducted, did not list open or close of business, and did not list the name of the store or its DEA number. In Count II of the Complaint the following allegations were made:

- "18. The records maintained by Americare Pharmacy were not complete and accurate in that the 100 mg tablet stock of Demerol actually on hand showed approximately a 34 tablet surplus over the record amount.
- "19. The records maintained by Americare Pharmacy were not complete and accurate in that the 100 mg tablet stock of Ritalin actually on hand showed approximately a 161 tablet surplus over the record amount.
- "20. The records maintained by Americare Pharmacy were not complete and accurate in that the stock of Dexadrine and Percodan actually on hand showed shortages from the record amounts. The records also were inaccurate in that the stock of Tylox, Demerol tablets, and Percocet tablets actually on hand showed surpluses over the record amounts.
- "21. The records maintained by Americare Pharmacy were not complete and accurate in that the injectable stock of Demerol actually on hand showed at least 48 vials not accounted for...
- ".....
- "24. The records maintained at Americare Pharmacy were not complete and accurate in that the injectable stock of Nubain showing a shortage of at least 1,720 doses from the record amount. Nubain is the brand name for nalbuphine hydrochloride and is a prescription drug."

IV

Count III of the Complaint contained the following allegation:

"26. At the time of the audits, the Americare Pharmacy prescription file contained a number of prescriptions suffering from deficiencies as noted below.

"Five prescriptions did not contain the necessary information for controlled substances. Rx0200179 for Paregoric did not contain the pharmacist's signature. Rx199977 for Xanax .25mg did not contain the DEA number of the physician. Rx199971 for Halcion .25mg did not contain the DEA number of the physician. Rx199968 for Darvocet N 1 did not contain the DEA number of the physician. Rx199922 for Valium 10 did not contain the pharmacist's signature."

V

Respondent is 49 years old, is separated from his wife and has two children ages 8 and 10. In December 1984 he underwent surgery for thrombosed prolapsed hemorrhoids. He was sent home from his surgery with a prescription for Demerol 100 mg to be taken 3 times a day. He traces his dependency on drugs following his surgery. He continued the Demerol after his prescription expired. Following the suspension of his Missouri license in April 1988 respondent entered St. Louis Cope, Inc., a treatment facility. He remained at Cope until December 1988. In December 1988 he continued treatment with Dr. S. Young Choi, M.D. and he is still under Dr. Choi's care. Respondent has undergone routine and random urine tests and the results have all been negative. Since December 1988 respondent has worked as a staff pharmacist at St. Mary's Hospital in Centralia, Illinois. There is a favorable letter of recommendation in evidence from Bruce A. Merrell, the pharmacy director at St. Mary's Hospital. Dr. Choi, in a letter dated July 11, 1990, recommends that respondent receive continuous out-patient follow up and care including antidepressant medication, individual medical psychotherapy and urine drug screens once every two weeks. He further suggests that the respondent be under a doctors care continuously for at least another three years and he states the opinion that the respondent will be able to practice as a good pharmacist after moving to California.

DETERMINATION OF ISSUES

Cause for discipline of respondent's license for violation of Business and Professions Code sections 4350.5, 4350(a) and 4355 was established by Findings III and IV.

ORDER

License No. RPH 33498 issued to respondent Sylvan Harold Cohen is revoked. However, the revocation is stayed and respondent is placed on probation for three years on the following terms and conditions:

1. Within 30 days of the effective date of this decision, respondent shall contact the Impaired Pharmacists Program for evaluation and shall successfully participate in and complete the treatment contract as recommended by the IPP. The costs for IPP participation shall be borne by the respondent.
2. Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.
3. Within 30 days of the effective date of this decision, and on a periodic basis as may be required by the Board or its designee, respondent shall undergo psychiatric evaluation by a Board-appointed psychiatrist who shall furnish a psychiatric report to the Board or its designee.

If the psychotherapist recommends, and the Board or its designee directs respondent to undergo psychotherapy, respondent shall, within 30 days of written notice of the need for psychotherapy, submit to the Board or its designee, for its prior approval, the recommended program for ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy until further notice from the Board. Respondent shall have the treating psychotherapist submit quarterly reports to the Board, or its designee.

If recommended by the psychotherapist and approved by the Board or its designee, respondent shall be barred from practicing pharmacy until the treating psychotherapist recommends, in writing and stating the basis therefor, that respondent can safely practice pharmacy, and the Board approves said recommendation.

4. Respondent shall not have any legal or beneficial interest in any business, firm, partnership, or corporation currently or hereinafter licensed by the Board and shall not own any pharmacy.

5. Respondent shall pay to the Board its costs of investigation in the amount of \$500. Respondent shall make said payments as follows:

Due and payable on the effective date of this decision.

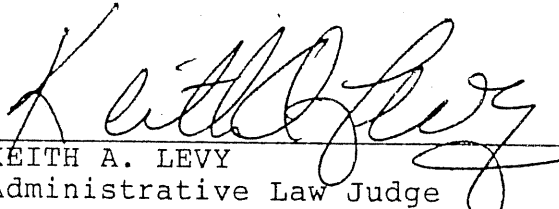
6. Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
7. Respondent shall report to the Board or its designee quarterly. Said report shall be either in person or in writing, as directed. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.
8. Respondent shall submit to peer review as deemed necessary by the Board.
9. Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.
10. Respondent shall notify all present and prospective employers of the Board's Decision and the terms, conditions and restriction imposed on respondent by said decision.
11. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the Board's Decision.
12. Should respondent work for or be employed by or through a pharmacy employment service, it shall be the obligation of the respondent to ensure the pharmacy at which he/she is to be employed or used of the fact and terms of this disciplinary order in advance of the respondent commencing work at the pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service as a pharmacist, whether the respondent is considered an employee or independent contractor.
13. Respondent shall not supervise any registered intern or technician and shall not perform any

of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge of any pharmacy licensed by the Board.

14. Should respondent leave California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.
15. Should respondent violate probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
16. Upon successful completion of probation, respondent's certificate will be fully restored.

Dated: October 29, 1950



KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

THIS/THREE DOCUMENTS IS/ARE TRUE AND
PERFECT COPY/COPIES OF THE ORIGINAL(S)
FILE IN THIS OFFICE.

DATED: 6/19/06

P. J. Harris

TRICIA E. HARRIS

Executive Officer

Florida State Board of Pharmacy

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Sylvan Harold Cohen
 P.O. Box 492
 New London, Missouri 63459

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</p> <p><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Sylvan Harold Cohen P.O. Box 492 New London, Missouri 63459</p>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>Janice K. Cohen</i></p> <p>B. Received by (Printed Name) <i>Janice K. Cohen</i></p> <p>C. Date of Delivery <i>10-16-06</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
<p>2. Article Number (Transfer from service label)</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input checked="" type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

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Board of Pharmacy
400 R Street, Suite 4070
Sacramento, CA 95814-6237
916 445-5014



CUT HERE

I M P O R T A N T

1. Please include your License No. with any correspond this office.
2. Notify the Board of Pharmacy of any name or address change in writing.
3. Report any loss immediately in writing to the Board.
4. Please sign and carry the Pocket License with you.

REGISTERED PHARMACIST

LICENSE NO. RPH 33498 EXPIRATION 01/31/06

SYLVAN HAROLD COHEN
2031 AVIGNON DR
ST CHARLES MO 63303

SYLVAN HAROLD COHEN

Signature Sylvan H Cohen
PPHRPH 09/30/99

LICENSE NO.
RPH 33498

EXPIRATION
01/31/06

RECEIPT NO.
00200071

Please retain this receipt in a safe location.